



County of Erie

MARK C. POLONCARZ
COMPTROLLER

February 28, 2006

Hon. George K. Arthur, Chairman
Erie County Charter Revision Commission
Erie County Legislature
92 Franklin Street, 4th Floor
Buffalo, New York 14202

Dear Mr. Arthur:

Please let this letter reflect for the record my official submission and recommendations to the Erie County Charter Revision Commission ("Commission") regarding proposed revisions to Erie County's Charter ("Charter").

I thank you for the opportunity to comment on the Office of Erie County Comptroller and Erie County's financial procedures in general. Additionally, I thank you and your fellow commissioners for your service to our community and for your in-depth review of the Charter and Administrative Code.

I am aware of the Commission's Fiscal Affairs Committee's working sessions and draft Charter changes and will not delve into all of the minutiae of Article Eighteen (Financial Procedures) of the Charter. However, I have several major recommendations concerning this office, as well as several thoughts concerning the revision process and county government more generally.

Office of Comptroller Specific Recommendations

Department of Finance: I recommend that Article Four of the Charter concerning the Department of Finance be deleted, and the powers, functions and responsibilities of that department be transferred to the Office of Comptroller. As Erie County's Chief Fiscal, Auditing, Accounting and Reporting Officer, it is logical that the functions and responsibilities outlined in Article Four be under the purview of the Comptroller. In fact, over time many of the powers and functions of the Department of Finance have shifted to the Office of Comptroller. This Charter revision would largely make *de jure* what is already *de facto*.

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Under these changes, formal functions to be maintained in this office would include the collection, receipt, deposit and disbursement of all fees, revenues and other funds of the county for which the county is responsible; maintaining custody of the county's vendor bank account and disbursing all vendor payments; perform all duties of a county treasurer including collection of taxes and issuance of tax bills; maintaining a record of the transfer of title of real property; assisting local assessors in the performance of their duties; submitting annually the proposed county tax equalization rates; reporting and recording all deposits, revenues and appropriations; providing evaluations of the county executive's proposed budget, and submitting to the legislature and county executive financial and budgetary reports and interpretations thereof.

Under these changes, the position and functions of the Director of Real Property Tax Services would be maintained, but would report to the Comptroller, and not the Director of Budget, Management and Finance. It is my opinion that implementation of this recommendation would create an efficient, streamlined county fiscal organization.

Centralized Accounting: In 2004, the County Executive in his "Green Budget" recommended the establishment of a centralized accounting function in the Office of Comptroller, and the removal of accounting functions and staff from county departments. This recommendation was based on a study conducted by the accounting firm Lumsden & McCormick, LLP and the Center for Governmental Research, which study was jointly commissioned by the then-Comptroller and the County Executive.

Due to the 2005 budget crisis, this proposal was never implemented. In fact, in the adopted 2006 Budget, a number of new accounting and accounting analysis positions and titles were created or re-created in various departments.

I recommend that as the county's Chief Accounting Officer, that all accounting functions, powers and positions be relocated to the Office of Comptroller. This will allow the timely and more cost-effective and efficient processing and disbursement of vendor payments, reconciliation of accounts, collection of revenues, and analysis of accounts. Additionally, this will eliminate the duplication of some services that presently takes place.

Independent Budget Review: For some time, many observers have suggested that the Office of Comptroller serve as an "independent" budget review office, separate from the county executive's appointed Director of Budget, Management and Finance. I concur. In 2005, the State Comptroller's financial review of Erie County found shortcomings in the revenue estimates provided by the county administration to the legislature including overstated or erroneous calculations of revenues.

I recommend that Article Eighteen of the Charter be revised to require that the Office of Comptroller engage in an annual review of the county executive's proposed budget's revenue estimates. Under my recommendation, the Comptroller would be required to provide a formal written analysis to the legislature of the countywide revenue accounts in the county executive's proposed budget no later than seven (7) days after the county executive submits his/her proposed budget to the Erie County Legislature. This analysis would include property and sales tax,

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payments in lieu of taxes, Off Track Betting revenue, interest and penalties on property taxes, hotel occupancy tax, among others. The independent review of these revenue estimates by the Comptroller would help to provide the legislature, as well as the Erie County Fiscal Stability Authority, and the public at-large, confidence in the annual budget submission.

Additionally, as a candidate for Comptroller I pledged to provide a comprehensive review of the annual proposed budget within fourteen (14) days of its release by the county executive, and to report back to the public on my office's findings. I intend to honor that campaign pledge, and my office will conduct that review in addition to the proposed revenue review contained in this section.

Revenue Recovery/Centralized Collections: The original adopted 2005 Budget (which by necessity was modified by the fiscal crisis), as well as the 2006 adopted Budget, created a revenue recovery unit in the Division of Budget, Management and Finance, as well as one revenue recovery staff member in the Department of Probation and Youth Detention. That unit is staffed by a total of four persons in Budget, and one in Probation. This unit's creation was controversial from the time it was proposed. My predecessor questioned this unit's creation and location in the Division of Budget, Management and Finance, and recommended that its functions be placed in my office, with the option of using existing county employees in this office and/or hiring outside vendors under a request for proposals.

I recommend that the revenue recovery function be removed from the Division of Budget, Management and Finance (and Probation) and established in the Charter as a responsibility of the Office of Comptroller. As Chief Fiscal Officer, it is my responsibility to pay all vendors, and perform the accounts receivable function, a function which in theory includes recapturing revenue owed to the county. This function should lie in this office, and if a revenue recovery unit exists in county government, it should exist in the Office of the Comptroller. (Please note that I am amenable to overseeing such function, issuing requests for proposals and using outside agencies to pursue accounts receivable, as Erie Community College currently does, and thus avoiding certain county general fund expenses).

Staffing: It must be kept in mind, however, that the relocation of the Department of Finance, centralized accounting, independent budget review, and revenue recovery (centralized collections) responsibilities and functions to the Office of Comptroller must be accompanied by an appropriate level of funding and staffing. While the Commission cannot and should not mandate staffing and funding levels, the transfer of certain functions and responsibilities cannot be successful without staffing, most likely through the simple transfer of existing incumbents from their departments to the Office of Comptroller.

I mention this for the record simply because the Office of Comptroller now has 34 budgeted positions, 31 of which are filled. That is a reduction from 2004 and early 2005, when this Office had more than 60 budgeted positions, 51 of which were filled. I am proud of the work being done by the professional civil servants in this office, and in doing more with less, but if my recommendations are formalized, additional positions will be required in the Office of the Comptroller.

"Debt Cap": One member of the Commission has suggested amending Article Eighteen (Section 1803) to establish a debt cap – a mechanism to prohibit the county from borrowing excessively or imprudently. Under the proposal, the county would be prohibited from any capital borrowing in excess of the amount of principal repaid in that year through debt service. In the event of an unanticipated emergency, the county could borrow in excess of the cap, with that excess amount to apply toward the next fiscal year cap.

I agree wholeheartedly with the concept of a debt cap in principle. Erie County's financial crisis was precipitated in part by excessive borrowing and spending, including massive levels of capital spending and borrowing. However, I fear a debt cap could be unduly burdensome and restrictive, notwithstanding any built in emergency measures.

For instance, the county's 2006-2011 capital borrowing program as contemplated in the 2006 adopted Budget includes \$306.1 million in projected borrowing in 2007-2009, of which \$110.5 million is just for the Erie County Holding Center and the Erie County Correctional Facility. Obviously, those costs exceed not only expected principal payments in 2007-2009, but the county's self-imposed \$30 million cap on borrowing as well (which cap is already being exceeded due to the Erie County Medical Center Corporation settlement). In the event the State of New York sanctions the county for overcrowding and poor conditions in our jails, the county could be compelled to build new space for inmates at each facility, thus violating any cap.

Other Charter Recommendations

Countywide Elected Departmental Budget Submission: During the 2005 budget crisis, the countywide elected officials (Comptroller, Sheriff, District Attorney and County Clerk) asked for authority to establish their own departmental budgets, and make annual budget requests directly to the legislature, instead of going through the county executive. I strongly support this concept and urge you to consider revising the Charter to enable countywide elected officials to create their own annual budget submissions and to provide them directly to the legislature.

Traditionally, the countywide elected officials have transmitted their funding requests for the following year to the county executive, and then waited to see what he included in his submission to the legislature. For example, in the 2006 Budget process, the county executive's proposed budget for my office rejected my predecessor's recommendations, and instead deleted one more position from this office's budget – the only county department or office to see a net reduction from the adjusted 2005 budget. That position deletion would have further weakened this office's role as the fiscal watchdog for the county. In the end, the legislature restored that position, as well as allowed this office to rehire two laid-off auditors in 2006. This office can never be a truly independent branch of government if the county executive controls the submission of the annual budget for the Office of the Comptroller.

County Manager: The Commission has been exploring the possibility of establishing a county manager position in county government, a position that would be appointed by and reporting directly to the county executive. I cannot support this concept. The existing position

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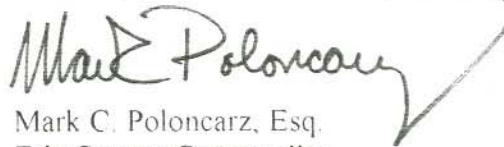
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of deputy county executive has long been established as the chief operating officer in county government, a successful example being that of David Smith, former County Executive Dennis Gorski's deputy, and now, the county manager in Maricopa County, Arizona. Formally establishing the position of county manager while maintaining the position of county executive would be redundant. It would also likely cost the county more in salary and benefits.

In my opinion, the Commission should either recommend maintaining the current county executive form of government, or institute a form similar to Niagara County's in which no county executive exists and the legislature appoints a county manager for a certain term. To maintain a county executive and give him/her the power to appoint a county manager would, in my opinion, duplicate positions without taking "politics" out of the equation.

Thank you for the opportunity to provide this official submission to the Commission. If you have any questions, or would like me to attend a future meeting of the Commission to testify or offer my thoughts, I would be happy to do so.

Sincerely yours,

A handwritten signature in dark ink, reading "Mark C. Poloncarz". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Mark C. Poloncarz, Esq.
Erie County Comptroller

MCP/tcc